

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 96-80908

v.

Hon. John Corbett O'Meara

HAROLD ROBERTS,

Defendant.

**ORDER DENYING DEFENDANT'S
CORAM NOBIS PETITION**

Before the court is Defendant Harold Roberts's petition for writ of error *coram nobis*, filed August 11, 2009. The government filed a brief in response on November 30, 2009. The court granted Defendant an extension of time until January 15, 2010, to file a reply brief. Defendant has not done so, however. Pursuant to Local Rule 7.1(e)(2), the court did not hear oral argument.

Harold Roberts was convicted by a jury on August 29, 1997, of bank fraud and possession of counterfeit checks. This court sentenced him to 84 months imprisonment; he has served his sentence and his term of supervised release. Roberts seeks to vacate his conviction pursuant to a writ of error *coram nobis*.

"*Coram nobis* is an extraordinary writ, used only to review errors of the most fundamental character – *e.g.*, errors rendering the proceedings themselves invalid." United States v. Johnson, 237 F.3d 751, 755 (6th Cir. 2001). The writ of error *coram nobis* is a potential avenue for relief when relief pursuant to 28 U.S.C. § 2255 is no longer available because the petitioner has served his sentence and is no longer in custody. A writ of error *coram nobis* may

be granted only when the petitioner demonstrates “(1) an error of fact, (2) unknown at the time of trial, (3) of fundamentally unjust character which probably would have altered the outcome of the challenged proceeding if it had been known.” Blanton v. United States, 94 F.3d 227, 231 (6th Cir. 1996).

Roberts argues that he is entitled to *coram nobis* relief for two reasons: (1) his attorney failed to serve subpoenas on necessary defense witnesses; and (2) the government allegedly withheld evidence that Roberts was cooperating with the government at the time he committed bank fraud and possessed counterfeit checks. As demonstrated by the trial transcript excerpts provided by both Roberts and the government, however, both of these issues were known at the time of trial. Indeed, Roberts testified about his cooperation with the government at trial. Further, the correction of these alleged errors would not have altered the outcome of Roberts’ trial, given the overwhelming evidence of his guilt, including his own written confession. Roberts has not identified fundamental errors that would render his trial invalid.

Accordingly, IT IS HEREBY ORDERED that Roberts’s petition for a writ of error *coram nobis* is DENIED.

s/John Corbett O’Meara
United States District Judge

Date: March 4, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record electronically and upon Harold Roberts at 25225 Greenfield, Apt. 422 Southfield, MI 48075 by ordinary mail on March 04, 2010.

s/William Barkholz
Case Manager